

Notice of Allowability**Application No.**

10/633,937

Applicant(s)

JOHNSON ET AL.

Examiner

IGOR BORISSOV

Art Unit

3628

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Interview Summary of 08/02/2010.
2. ☒ The allowed claim(s) is/are 1, 3, 5-7, 9-10, 12-18, 20, 22-25, 27, 29-35, 49, 51, 53-57, 59-72, 74-75, 77-86, 88-90, 92-95, 97-111, 113-117, 119-121 and 123-130.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/IGOR BORISSOV/
Primary Examiner, Art Unit 3628

Response to Amendment

Amendment received on 07/03/2010 is acknowledged and entered. Claims 2, 4, 8, 11, 19, 21, 26, 28, 36-48, 50, 52, 58, 73, 76, 87, 91, 96, 112, 118 and 122 have been canceled. Claims 1, 3, 5-7, 9-10, 12-18, 20, 22-25, 27, 29-35, 49, 51, 53-57, 59-72, 74-75, 77-86, 88-90, 92-95, 97-111, 113-117, 119-121 and 123-130 are currently pending in the application.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a personal interview with Applicant Jack J. Johnson on Tuesday, 18, 2010.

During the Interview the inventive features of the current application and how they differ from cumulative teaching of the prior art of record were discussed. It was observed and agreed that prior art of record does not teach: "transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy providers by the moderating computer during an automated bidding process". Further, changes to the claim language were discussed in order to clarify patentable subject matter and avoid issues under 35 USC 101. Finally, the agreement was reached and the Representative gave authorization for the Examiner Amendment to amend the claims and, thereby, place the claims into the condition of allowance.

The application has been amended as follows:

IN THE CLAIMS

1. (Currently Amended) A method for creating an automated bidding process among energy Providers in which a moderating computer collects bids from each Provider of a plurality of energy Providers, processes the bids and designates at least two Providers of the plurality of energy Providers to provide energy, consisting of electric power or natural gas, to at least one reseller for use by at least one end-user customer of the at least one reseller, based on an economic choice in accordance with auction rules, ~~wherein~~ the method compris[es]]ing:

a. transmitting at least a portion of historical energy usage data associated with the at least one end-user customer of the at least one reseller to at least a portion of the plurality of energy Providers;

b. receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage data has been transmitted in Step a., bids to provide electric power or natural gas to the at least one reseller for use by the at least one end-user customer of the at least one reseller[.];

c. processing the bids in accordance with the auction rules to produce processed bid data[.]; [[and]]

d. storing the bids and the processed bid data in a data base as first bidding data;

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[[c]]e. transmitting at least a portion of the first bidding data to at least a one bidding Provider of the plurality of energy Providers; and

[[d]]f. designating at least two Providers of the plurality of energy Providers to provide electric power or natural gas to the at least one reseller for use by the at least one end-user customer, with each of said designated Providers to supply at least a portion of the electric power or natural gas needed by the at least one end-user customer for use during at least a portion of a specific future time interval[[:]];.

wherein each part of Steps a.- [[d]]f. is performed by at least one of: the moderating computer or [[by]] the moderating computer working in conjunction with at least one adjunct computer.

20. (Currently Amended) A method for creating an automated bidding process among energy Providers in which a moderating computer collects bids from each Provider of a plurality of energy Providers, processes the bids and communicates with a first control computer, thereby enabling the first control computer to designate at least one Provider of the plurality of energy Providers to provide energy, consisting of electric power or natural gas, to at least one reseller for use by at least one end-user customer of the at least one reseller, based on an economic choice in accordance with auction rules, ~~wherein~~ the method compris[~~es~~]ing:

a. [[in]]by at least one of: the moderating computer and the moderating computer working in conjunction with the first control computer, transmitting at

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least a portion of historical energy usage data associated with the at least one end-user customer of the at least one reseller to at least a portion of the plurality of energy Providers;

b. [[in]]by the moderating computer, receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage data has been transmitted in Step a., bids to provide electric power or natural gas to the at least one reseller for use by the at least one end-user customer of the at least one reseller~~[[,]]~~;

c. processing the bids in accordance with the auction rules to produce processed bid data~~[[,]]~~; [[and]]

d. storing the bids and the processed bid data in a data base of the moderating computer as first control computer data;

[[c]]e. [[in]]by the moderating computer, transmitting at least a portion of the first control computer data to the first control computer;

[[d]]f. [[in]]by at least one of the moderating computer and the first control computer, transmitting at least a portion of the first control computer data to at least a one bidding Provider of the plurality of energy Providers; and

[[e]]g. [[in]]by the first control computer, designating at least one Provider of the plurality of energy Providers to provide electric power or natural gas to the at least one reseller for use by the at least one end-user customer, with each designated Provider to supply at least a portion of the electric power or natural gas needed by the at least one end-user customer for use during at least a portion of a specific future time interval.

49. (Currently Amended) A method for conducting an automated bidding process among a plurality of energy Providers, such process utilizing a moderating computer and based on an economic choice in accordance with auction rules, the method comprising:

a. transmitting at least a portion of historical energy usage data associated with at least one end-user customer of at least one reseller to at least a portion of the plurality of energy Providers;

b. receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage data has been transmitted in Step a., bids to provide energy, consisting of electric power or natural gas, to the at least one reseller for use by the at least one end-user customer of the at least one reseller;

c. processing the bids in accordance with the auction rules;

d. distributing at least a portion of processed bid information to at least a one bidding Provider of the plurality of energy Providers; and

e. designating, on the basis of the processed bid information, at least one Provider of the plurality of energy Providers to provide electric power or natural gas to the at least one reseller for use by the at least one end-user customer, with each designated Provider to supply at least a portion of the electric power or natural gas needed by the at least one end-user customer for use during at least a portion of a specific future time interval[.,.];

wherein each of Steps a., d. and e. is performed by at least one of:
the moderating computer, [[by]] the moderating computer working in conjunction
with at least one adjunct computer, [[by]] the moderating computer working in
conjunction with a control computer, or [[by]] the moderating computer working in
conjunction with both at least one adjunct computer and the control computer,
and wherein each of Steps b. and c. is performed by at least one of: the
moderating computer or [[by]] the moderating computer working in conjunction
with at least one adjunct computer.

68. (Currently Amended) A method for creating an automated bidding process
among energy Providers for the benefit of end users in which a moderating
computer collects bids from each Provider of a plurality of energy Providers,
processes the bids and communicates with a first control computer, thereby
enabling the first control computer to designate at least a first Provider of the
plurality of energy Providers to provide energy, consisting of electric power or
natural gas, to at least one end user, based on an economic choice in
accordance with auction rules, ~~wherein~~ the method compris[es]ing:

a. [[in]]by at least one of the moderating computer and the moderating
computer working in conjunction with the first control computer, transmitting at
least a portion of historical energy usage data associated with the at least one
end user to at least a portion of the plurality of energy Providers;

b. [[in]]by the moderating computer, receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage data has been transmitted in Step a., bids to provide electric power or natural gas to the at least one end user~~[[.]]~~;

c. processing the bids in accordance with the auction rules to produce processed bid data~~[[.]]~~; ~~[[and[[~~

d. storing the bids and the processed bid data in a data base of the moderating computer as first control computer data;

~~[[c]]~~e. [[in]]by the moderating computer, transmitting at least a portion of the first control computer data to the first control computer;

~~[[d]]~~f. [[in]]by at least one of the moderating computer and the first control computer, transmitting at least a portion of the first control computer data to at least one bidding Provider of the plurality of energy Providers; and

~~[[e]]~~g. [[in]]by the first control computer, designating at least the first Provider of the plurality of energy Providers to provide electric power or natural gas to the at least one end user, with each designated Provider to supply at least a portion of the electric power or natural gas to be used by the at least one end user at at least one end-user facility during at least a portion of a specific future time interval.

86. (Currently Amended) A method for conducting an automated bidding process among a plurality of energy Providers for the benefit of Buyers, such

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process utilizing a moderating computer and based on an economic choice in accordance with auction rules, the method comprising:

a. receiving, from at least one Buyer, at least one request for future energy supply, consisting of electric power or natural gas;

b. processing the at least one request and distributing at least a portion of at least one processed request to a plurality of energy Providers;

c. transmitting at least a portion of historical energy usage data associated with the at least one Buyer to at least a portion of the plurality of energy Providers;

d. receiving, from at least two Providers of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage data has been transmitted in Step c., bids to provide electric power or natural gas to the at least one Buyer;

e. processing the bids in accordance with the auction rules;

f. distributing at least a portion of processed bid information to at least one bidding Provider of the at least two Providers; and

g. designating, on the basis of the processed bid information, at least one Provider of the at least two Providers to provide electric power or natural gas to the at least one Buyer, with each designated Provider to supply at least a portion of the electric power or natural gas needed by the at least one Buyer during at least a portion of a specific future time interval for use at at least one end-user facility[;];

wherein each of Steps a., c., f. and g. is performed by at least one of: the moderating computer, [[by]] the moderating computer working in conjunction with at least one adjunct computer, [[by]] the moderating computer working in conjunction with a control computer, or [[by]] the moderating computer working in conjunction with both at least one adjunct computer and the control computer, and wherein each of Steps b., d. and e. is performed by at least one of: the moderating computer or [[by]] the moderating computer working in conjunction with at least one adjunct computer.

102. (Currently Amended) A method for creating an automated bidding process among energy Providers in which a moderating computer collects bids from each Provider of a plurality of energy Providers, processes the bids and designates at least one Provider of the plurality of energy Providers to provide energy, consisting of electric power or natural gas, to at least one end user, based on an economic choice in accordance with auction rules, ~~wherein~~ the method compris[~~es~~]ing:

a. transmitting at least a portion of historical energy usage information associated with the at least one end user to at least a portion of the plurality of energy Providers;

b. receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage information has been transmitted in Step a., bids to provide electric power or natural gas to the at least one end user[[.]];

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c. processing the bids in accordance with the auction rules to produce processed bid data[(:)]; [[and]]

d. storing the bids and the processed bid data in a data base as first bidding data;

[[c]]e. transmitting at least a portion of the first bidding data to at least a one bidding Provider of the plurality of energy Providers;

[[d]]f. designating at least one Provider of the plurality of energy Providers to supply at least a portion of the electric power or natural gas needed by the at least one end user for use at at least one end-user facility during a specific future time interval[(:)]; [[and]]

wherein each [part of] Steps a.- [[d]]f. is performed by at least one of: the moderating computer or [[by]] the moderating computer working in conjunction with at least one adjunct computer.

113. (Currently Amended) A method for conducting an automated bidding process among a plurality of energy Providers for the benefit of end users, such process utilizing a moderating computer and based on an economic choice in accordance with auction rules, the method comprising:

a. transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy Providers;

b. receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical

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energy usage information has been transmitted in Step a., bids to provide energy, consisting of electric power or natural gas, to the at least one end user;

c. processing the bids in accordance with the auction rules;

d. transmitting at least a portion of processed bid information to at least a one bidding Provider of the plurality of energy Providers; and

e. designating, on the basis of the processed bid information, at least two Providers of the plurality of energy Providers to provide electric power or natural gas to the at least one end user, with each of said designated Providers to supply at least a portion of the electric power or natural gas needed by the at least one end user for use at at least one end-user facility during a specific future time interval[[:]].

wherein each of Steps a., d. and e. is performed by at least one of: the moderating computer, [[by]] the moderating computer working in conjunction with at least one adjunct computer, [[by]] the moderating computer working in conjunction with a control computer, or [[by]] the moderating computer working in conjunction with both at least one the adjunct computer and the control computer, and wherein each of Steps b. and c. is performed by at least one of: the moderating computer or the moderating computer working in conjunction with at least one adjunct computer.

123. (Currently Amended) A method for conducting an automated bidding process among a plurality of energy Providers for the benefit of end users, such

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process utilizing a moderating computer and based on an economic choice in accordance with auction rules, the method comprising:

- a. transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy Providers;
- b. receiving, from each Provider of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage information has been transmitted in Step a., bids to provide energy, consisting of electric power or natural gas, to the at least one end user;
- c. processing the bids in accordance with the auction rules;
- d. transmitting at least a portion of processed bid information to at least a one bidding Provider of the plurality of energy Providers; and
- e. designating, on the basis of the processed bid information, at least one Provider of the plurality of energy Providers, to supply at least a portion of the electric power or natural gas needed by the at least one end user for use at at least one end-user facility during a specific future time interval, such that the designated Providers, when their respective designations to supply are summed, are designated to supply 100% of the electric power or natural gas needed by the at least one end user for use at the at least one end-user facility during at least a portion of the specific future time interval[[:]],

wherein each of Steps a., d. and e. is performed by at least one of: the moderating computer, [[by]] the moderating computer working in conjunction with at least one adjunct computer, [[by]] the moderating computer working in

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conjunction with a control computer, or [[by]] the moderating computer working in conjunction with both at least one adjunct computer and the control computer, and wherein each of Steps b. and c. is performed by at least one of: the moderating computer or [[by]] the moderating computer working in conjunction with at least one adjunct computer.

130. (Currently Amended) A method for conducting an automated bidding process among a plurality of energy Providers for the benefit of Buyers, such process utilizing a moderating computer and based on an economic choice in accordance with auction rules, the method comprising:

a. receiving, from at least one Buyer, at least one request for future energy supply, consisting of electric power or natural gas;

b. processing the at least one request and distributing at least a portion of at least one processed request to a plurality of energy Providers;

c. transmitting at least a portion of historical energy usage information associated with the at least one Buyer to at least a portion of the plurality of energy Providers;

d. receiving, from at least two Providers of the plurality of energy Providers, including at least one energy Provider to whom the at least a portion of historical energy usage information has been transmitted in Step c., bids to provide electric power or natural gas to the at least one Buyer;

e. processing the bids in accordance with the auction rules;

f. transmitting at least a portion of processed bid information to at least one bidding Provider of the at least three Providers; and

g. designating, on the basis of the processed bid information, one Provider of the at least three two Providers, with the one designated Provider designated to supply 100% of the electric power or natural gas needed by the at least one Buyer during the specific future time interval for use at the at least one end-user facility[[:]],

wherein each of Steps a., c., f. and g. is performed by at least one of: the moderating computer, [[by]] the moderating computer working in conjunction with at least one adjunct computer, [[by]] the moderating computer working in conjunction with a control computer, or [[by]] the moderating computer working in conjunction with both at least one adjunct computer and the control computer, and wherein each of Steps b., d. and e. is performed by at least one of: the moderating computer or [[by]] the moderating computer working in conjunction with at least one adjunct computer.

Allowable Subject Matter

Claims 1, 3, 5-7, 9-10, 12-18, 20, 22-25, 27, 29-35, 49, 51, 53-57, 59-72, 74-75, 77-86, 88-90, 92-95, 97-111, 113-117, 119-121 and 123-130 are allowed.

The following is an examiner's statement of reasons for allowance:

During the Interview it was agreed that the best prior art of record (Tuck et al., Chasek, Sibley, Jr., Sollinger, Silverman et al., Mistr, Jr., Witek et al.) does not teach: "transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy providers by at least on of: the moderating computer, the moderating computer working in conjunction with at least one adjunct computer, or the moderating computer working in conjunction with a control computer, during an automated bidding process". Further, changes to the claim language were discussed in order to clarify patentable subject matter and avoid issues under 35 USC 101. Finally, the agreement was reached and the Representative gave authorization for the Examiner Amendment to amend the claims and, thereby, place the claims into the condition of allowance.

The best foreign art, Venkataraman (EP 0 329 901 A2), (See: IDS of 07/16/2007), while teaching communicating information regarding utility usage, fails to teach or fairly suggest: "transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy providers by the by the moderating computer, by the moderating computer working in conjunction with at least one adjunct computer, or by the moderating computer working in conjunction with a control computer, during an automated bidding process".

The best NPL prior art, Mitigating Greenhouse Gas Emissions: Voluntary Reporting; Increasing End-Use Energy Efficiency, 1997, (See: IDS of 07/16/2007), while addressing issues regarding monitoring of energy usage, fails to teach or fairly suggest: "transmitting at least a portion of historical energy usage information associated with at least one end user to at least a portion of a plurality of energy providers by the by the moderating computer, by the moderating computer working in conjunction with at least one adjunct computer, or by the moderating computer working in conjunction with a control computer, during an automated bidding process".

The remaining dependent claims are considered allowable, as they are dependent and based off of an allowable independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reason for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

8/02/2010